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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,065	03/23/2006	Eric Jonsen	US030362US	6992

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EXAMINER
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BEHRINGER, LUTHER G

ART UNIT	PAPER NUMBER
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3766

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,065	<b>Applicant(s)</b> JONSEN, ERIC	
	<b>Examiner</b> LUTHER G. BEHRINGER	<b>Art Unit</b> 4148	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **Response to Amendment**

Receipt is acknowledged of applicant's amendment filed 03/05/2008. Applicant's arguments with respect to claim(s) 1 – 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claim(s) 1 – 3, 5 – 7, 9, 12 – 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Olson et al. (US 6,101,413)**.

Regarding **claim(s) 1, 5, 6, and 16**, Olson et al. discloses a method for identifying an electrode type in an automatic external defibrillator but fails to provide a

shaped conductive label on an automatic external defibrillator electrode package which includes an electrical connector for coupling an electrode to the defibrillator a shaped conductive label having a conductive path that uniquely identifies a type of electrode contained therein; and coupling one or more pins to the shaped conductive label when the automatic external defibrillator electrode package is coupled to the defibrillator.

4. To have considered the package identification element **400** disclosed by Olson et al. to be a label with a particular shape would have been obvious, if not inherent, to one of ordinary skill since Olson et al. states that the package identification element **400** may be separately attached to the package externally (Figure 9; Col.8, Lines 32 – 34), just like a label.

Regarding **claim(s) 2, 13 and 19**, Olson et al. does not explicitly disclose the step of: sensing a shape of the shaped conductive label with the one or more conductors to ascertain the type of electrode contained therein (Figures 9 – 11).

5. However, Olson et al. does teach the use of a sense resistor **410** and resistor **406** combination (Figures 9 – 10). Utilizing one or more conductors to establish a connection (short circuit, zero resistance) or lack thereof (open circuit, infinite resistance) on a shaped conductive label to establish its shape would have been an obvious extension of the skill set of one skilled in the art.

Regarding **claim(s) 3, 9, 14 and 20**, Olson et al. discloses the step of: selecting an operating mode for the automatic external defibrillator based on the shape of the shaped conductive label (Column 9, Lines 49 – 51).

Regarding **claim 7**, Olson et al. discloses an electrode cartridge receptacle to accept each of the one or more electrode cartridges, said electrode cartridge receptacle including one or more sensing pins to couple in a unique pattern to the one or more shaped conductive labels when each of the one or more electrode cartridges is inserted into the electrode cartridge receptacle (Figure 1 and 11).

Regarding **claim 12**, Olson et al. fails to disclose wherein each of the one or more shaped conductive labels comprises a unique shape.

6. To have considered the package identification element **400** disclosed by Olson et al. to be a label with a particular shape would have been obvious, if not inherent, to one of ordinary skill since Olson et al. states that the package identification element **400** may be separately attached to the package externally (Figure 9; Col.8, Lines 32 – 34), just like a label.

Regarding **claim(s) 15 and 17**, Olson et al. discloses wherein each of the automatic external defibrillator electrode cartridges includes two contacts for electrically connecting patient electrodes to the automatic external defibrillator and the automatic external defibrillator electrode cartridge receptacle includes two contacts for electrically connecting the automatic external defibrillator to the two contacts on each of the automatic external defibrillator electrode cartridges, and said two contacts on the automatic external defibrillator electrode cartridge receptacle are different than said one or more sensing pins (Figure 1 and 11).

7. Claim(s) 4, 8, 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Olson et al. (US 6,101,413)** in view of **Verness et al. (US 6,018,683)**.

Regarding **claim(s) 4 and 8**, Olson et al.'s invention fails to disclose wherein said sensing step further comprises redundantly sensing two or more portions of said shape of the shaped conductive label with two or more conductors to ascertain the type of electrode contained therein.

However, Verness et al. teaches wherein said sensing step further comprises redundantly sensing two or more portions of said shape of the shaped conductive label with two or more conductors to ascertain the type of electrode contained therein (Column 3, Lines 32 – 35).

8. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the disclosure of Olson et al. with the teachings of Verness et al. thereby increasing the reliability of the conductive connection between the connector and the pins and the subsequent selection by the automatic emergency defibrillator of the appropriate amplitude of electrical stimulation to apply.

Regarding **claim(s) 10 and 18**, Olson et al.'s invention fails to disclose wherein each of the one or more sensing pins comprises a spring-loaded pin to maintain said each sensing pin in electrical contact with the one or more shaped conductive labels when each of the one or more electrode cartridges is inserted into the electrode cartridge receptacle.

However, Verness et al. teaches wherein each of the one or more sensing pins comprises a spring-loaded pin to maintain said each sensing pin in electrical contact with the one or more shaped conductive labels when each of the one or more electrode cartridges is inserted into the electrode cartridge receptacle (Column 9, Lines 58 – 67).

9. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the disclosure of Olson et al. with the teachings of Verness et al. thereby increasing the reliability of the conductive connection between the connector and the pins by maintaining a constant pressure on the conductive label.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Olson et al. (US 6,101,413)** in view of **Wheeler (US 5,989,053)**.

Regarding **claim 11**, Olson et al.'s invention fails to disclose wherein each of the one or more shaped conductive labels comprises a gold-plated metal.

However, Wheeler teaches wherein each of the one or more shaped conductive labels comprises a gold-plated metal (Column 1, Lines 35 – 37).

11. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the disclosure of Olson et al. with the teachings of Wheeler as it is well known in the art that a clean, un-corroded, electrical connection, that can be achieved by plating a metal with gold, produces a more reliable and efficient electronic circuit.

***Response to Amendment***

12. Applicant's arguments filed 03/05/2008 have been fully considered but they are not persuasive.

**Applicant states**, The informalities in Claims 5, 7, 9, and 17, remaining reference numbers, have been canceled.

Claims 1-3, 5-7, 9, 12-17 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by US Pat. 6,101,413 (Olson et al.) Amended Claim 1 describes a method for identifying an electrode type in an automatic external defibrillator comprising the steps of providing on an automatic external defibrillator electrode package which includes an electrical connector for coupling an electrode to the defibrillator, a shaped conductive label having a conductive path that uniquely identifies a type of electrode contained therein; coupling the electrode electrical connector to an electrode connector of the defibrillator; and coupling one or more pins to the shaped conductive label when the automatic external defibrillator electrode package is coupled to the defibrillator. By this method a defibrillator can use a common electrode package for different types of electrodes such as adult electrodes, pediatric electrodes, and training electrodes. All that is needed is to affix a shaped conductive label to the package with a conductive path uniquely identifying the type of electrode in the package. The electrode electrical connector is coupled to an electrode connector of the defibrillator and when the electrode package is coupled to the defibrillator, conductors read the conductive label to identify the electrodes. There is no need to put any identifying components inside the package, and no need to complicate the electrode circuitry with specialized circuits to identify the electrodes, which is done by the conductors reading the conductive path of



the label. Claims 5, 6 and 16 specify that it is the shape of the label which identifies the electrode.

Olson et al. describe various components which can be attached to an electrode 50 inside the electrode package 60 to identify the electrode. In Fig. 10 the component is a passive component such as a resistor, capacitor or inductor. In Fig. 11 the component is an active component such as a read-only memory device. The component is connected to the lead wires 56 of the electrode 50. The value of the passive component is measured by a measuring means 100 or 402 and the measured value indicates the electrode type. In the case of the active component, the component is energized by an energizing means 404 to enable data stored in the device to be read by a processor 74 to identify the electrode. All of these embodiments require that an additional component be included in the electrode package. In the case of the passive component, additional circuitry must be connected to the electrode connector 32 of the defibrillator to measure the value of the component. It is never desirable to attach unneeded circuitry to the life-saving electrode circuitry of a defibrillator, where reliability is of paramount concern. Furthermore, a mis-reading of the measured value can cause the defibrillator to perform improperly. In the case of the active component 418, power leads must be brought into the package, and another connection must be provided for reading the data generated by the component, further increasing the complexity and cost of the package. With a shaped conductive label of the present invention, the label can simply be adhesively attached to the finished electrode package. A conductive label is generally far less expensive than an active or passive electrical component. No wires or

measuring circuits need to be connected to any extra component inside the package or to the electrode circuit. Conductors simply read the shaped conductive label. If a part of the label connects two conductors, the impedance of the path is virtually zero; if two conductors are unconnected the impedance is infinite. There is no problem with discriminating between measured values of resistors, capacitors, or inductors. A shaped conductive label is nowhere shown or suggested by Olson et al. Making a decision based on the shape of a label is nowhere shown or suggested by Olson et al. For all of these reasons it is respectfully submitted that Claims 1-3, 5-7, 9, 12-17 and 19 cannot be anticipated by Olson et al.

Claims 4, 8, 10 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Olson et al. in view of US Pat. 6,018,683 (Verness et al.) It should first be noted that Verness et al. do not show or suggest the use of a shaped conductive label, nor do they suggest making a decision based on the shape of a label. Verness et al. describe a lead for an implantable pacemaker or other device which has a coiled conductor 116 for primary use. If the coiled conductor becomes fractured, a stranded conductor 118 in parallel with the coiled conductor should continue to provide electrical continuity.

Verness et al. stands for redundant electrical components, and no more. Verness et al. do not show or suggest redundantly sensing two or more portions of a shaped conductive label, as the Examiner asserts is taught at col. 3, lines 32-35 of Verness et al. At the end of the coiled and stranded conductors the two are crimped together by ferrule 369 which has a crimp 370. No spring-loaded pin is shown or suggested as the Examiner says is taught at col. 9, lines 58- 67. With a shaped conductive label absent

from both Olson et al. and Verness et al., it is respectfully submitted that the combination of these two patents cannot render Claims 4, 8, 10 and 18 or any other claims of this application unpatentable.

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Olson et al. in view of US Pat.5,989,053 (Wheeler). Wheeler was cited for its teaching of the use of gold plating of electrical connectors. Claim 11 recites the use of shaped conductive labels with a gold-plated metal, and shaped conductive labels are not shown or suggested in either Olson et al. or Wheeler. For this reason it is respectfully submitted that the combination of Olson et al. and Wheeler cannot render Claim 11 unpatentable. The prior art made of record and not applied has been reviewed and is not believed to affect the patentability of the above claims.

In view of the foregoing amendment and remarks, it is respectfully submitted that the informalities of the claims have been resolved, that Claims 1-3, 5-7, 9, 12-17 and 19 are not anticipated by Olson et al., and that Claims 4, 8, 10, 11 and 18 are patentable over any combination of Olson et al., Verness et al., and Wheeler. Accordingly it is respectfully requested that the rejection of Claims 1-3, 5-7, 9, 12-17 and 19 under 35 U.S.C. §102(b) and of Claims 4, 8, 10, 11 and 18 under 35 U.S.C. §103(a) be withdrawn.

In light of the foregoing amendment and remarks, it is respectfully submitted that this application is now in condition for allowance. Favorable reconsideration is respectfully requested.

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***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUTHER G. BEHRINGER whose telephone number is (571)270-3868. The examiner can normally be reached on Mon - Thurs 8:00 - 5:30; 2nd Friday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on (571) 272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4148

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luther G Behringer/  
Examiner, Art Unit 4148

/Terrell L Mckinnon/  
Supervisory Patent Examiner, Art Unit 4148